

## JOURNAL OF THE HOUSE.

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Tuesday, April 8, 2014.

Met according to adjournment, at one o'clock P.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of  
allegiance.

### *Valedictory Address.*

The Speaker being in the Chair,—

There being no objection, Mr. Murphy of Lowell addressed the House regarding his departure from service in the House of Representatives.

Valedictory  
address.

### *Statement concerning Representative Linsky of Natick.*

A statement of Mrs. Haddad of Somerset concerning Mr. Linsky of Natick was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Linsky of Natick, is unable to be present in the House Chamber for today's session due to a previously scheduled family commitment. His missing of roll calls today is due entirely to the reason stated.

Statement of  
Mr. Linsky  
of Natick.

### *Statement concerning Representative Stanley of Waltham.*

A statement of Mrs. Haddad of Somerset concerning Mr. Stanley of Waltham was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Stanley of Waltham, is unable to be present in the House Chamber for today's session due to a family illness. His missing of roll calls today is due entirely to the reason stated.

Statement of  
Mr. Stanley  
of Waltham.

### *Resolutions.*

Resolutions (filed with the Clerk by Mr. DeLeo of Winthrop) congratulating Joseph T. James and Dorothea B. James on the occasion of their seventieth wedding anniversary, were referred, under Rule 85, to the committee on Rules.

Joseph T. and  
Dorothea B.  
James.

Mr. Binienda of Worcester, for said committee, reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mrs. Haddad of Somerset, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

### *Papers from the Senate.*

A Bill establishing a sick leave bank for Maria Elaskar-Stack, an employee of the Department of Children and Families (Senate, No. 2087) (on Senate bill No. 2062), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Maria  
Elaskar-  
Stack,—  
sick leave.

Maria  
Elaskar-  
Stack,—  
sick leave.

Mr. Kafka of Stoughton, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

#### Bills

Rex Trailer.

Designating Rex Trailer as the official cowboy of the Commonwealth (Senate, No. 1622) (on a petition); and

Disability  
commissions.

Relative to local commissions on disability (Senate, No. 1985) (on Senate, No. 1458);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

#### *Reports of Committees.*

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the following bills be scheduled for consideration by the House:

Ipswich,—  
tax  
abatements.

The Senate Bill authorizing the town of Ipswich to grant certain retroactive real estate tax abatements (Senate, No. 1910) [Local Approval Received]; and

Christine  
Green,—  
sick leave.

The House Bill establishing a sick leave bank for Christine Green, an employee of the Worcester Recovery Center and Hospital (House, No. 3957);

Under suspension of Rule 7A, in each instance, on motion of the same member, the bills were read a second time forthwith; and they were ordered to a third reading.

Military  
installations,—  
bond terms.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill providing the terms of certain bonds encouraging the improvement, expansion and development of military installations in the Commonwealth (printed in House, No. 3982), ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Insurance  
holding  
companies.

By Mr. Costello of Newburyport, for the committee on Financial Services, on a petition, a Bill relative to insurance holding companies (House, No. 882, changed in section 2, in line 5, by striking out the figures: "206" and inserting in place thereof the following: "206C").

Third party  
administrators.

By the same member, for the same committee, on a petition, a Bill relative to third party administrators (House, No. 950, changed in section 1, in line 1, by inserting after the word "Laws" the following: ", as appearing in the 2012 Official Edition,")

Veterans,—  
retirement.

By Mr. Michlewitz of Boston, for the committee on Public Service, on a petition, a Bill relative to veterans (House, No. 2296).

Retirement,—  
survivors.

By the same member, for the same committee, on a petition, a Bill relative to survivor allowance (House, No. 2390).

Justice,—  
retirement.

By the same member, for the same committee, on a petition, a Bill relative to the Office of Senior Justice (House, No. 2392).

Collective  
bargaining.

By the same member, for the same committee, on a petition, a Bill to provide funding of certain collective bargaining agreements (House, No. 2444).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Costello of Newburyport, for the committee on Financial Services, on a petition, a Bill relating to fire insurance (House, No. 958, changed in line 1 by striking out the year “2006” and inserting in place thereof the year “2012”).

Fire insurance.

By Mr. Michlewitz of Boston, for the committee on Public Service, on a petition, a Bill relative to firefighters [sic] cessation program (House, No. 2419).

Safety officers,—  
smoking.

By the same member, for the same committee, on a joint petition, a Bill exempting the police department of the town of Westwood from the provisions of the civil service law (House, No. 3794) [Local Approval Received].

Westwood,—  
civil service.

By the same member, for the same committee, on a petition, a Bill directing the State-Saugus retirement board to retire John Coburn a police officer of the town of Saugus (House, No. 3809) [Local Approval Received].

Saugus,—  
John  
Coburn.

By the same member, for the same committee, on a joint petition, a Bill authorizing the town of Conway to continue the employment of Robert Baker and Ronald Hawkes (House, No. 3876) [Local Approval Received].

Conway,—  
Robert Baker  
and Ronald  
Hawkes.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

### *Emergency Measures.*

The engrossed Bill designating a certain bridge in the town of Andover as the Andover Veterans of the Iraq and Afghanistan Wars Memorial Bridge (see Senate, No. 1967), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Andover,—  
Iraq and  
Afghanistan  
Veterans  
Bridge.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 6 to 0. Sent to the Senate for concurrence.

The engrossed Bill authorizing the granting of easements at Northern Essex Community College in the city of Haverhill (see House, No. 3905, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Haverhill,—  
Northern Essex  
Community  
College.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 6 to 0. Sent to the Senate for concurrence.

The engrossed Bill reviving and continuing the task force on the prevention of unlawful and unnecessary foreclosures (see House, No. 3969), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Unnecessary  
foreclosures.

Unnecessary  
foreclosures.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 6 to 0. Sent to the Senate for concurrence.

*Engrossed Bill.*

Bill  
enacted.

The engrossed Bill authorizing the town of Webster to issue five additional all alcoholic beverages to be drunk on the premises designated for use in the downtown's "Slum and Blight" Main Street Area (see Senate, No. 1990) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

*Recess.*

Recess.

At twenty-six minutes before two o'clock P.M., on motion of Mr. Beaton of Shrewsbury (Mr. Donato of Medford being in the Chair), the House recessed until two o'clock P.M.; and at twenty-eight minutes before three o'clock the House was called to order with Mr. Donato in the Chair.

*Motion to Discharge Certain Matters  
in the Orders of the Day.*

Unemployment  
insurance.

A report, in part, of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2011) of the House Bill making appropriations for the fiscal year 2014 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3903), recommending a Bill relative to unemployment rates (House, No. 4036), was discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47, on motion of Mr. Dempsey of Haverhill.

Conference  
committee  
report  
accepted,—  
yea and nay  
No. 322.

On the question on acceptance of the report, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 147 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 322 in Supplement.]**

Therefore the report of the committee of conference was accepted. Sent to the Senate for concurrence.

Boston Strong  
license plate.

The Speaker being in the Chair,—

The Senate amendment of the House Bill relative to a Massachusetts Boston Strong license plate (House, No. 3664, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47, on motion of Mr. Puppolo of Springfield.

Pending the question on adoption of the amendment, in concurrence, Mr. Speliotis of Danvers moved that the House concur with the Senate in its amendment with a further amendment by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith funding and memorial efforts for the victims of the tragic events that occurred at the Boston Marathon on April 15, 2013, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”; and the further amendment was adopted.

The House then concurred with the Senate in its amendment, as amended. Sent to the Senate for concurrence in the further amendment.

*Report of a Committee.*

Mr. Binienda of Worcester, for the committee on Rules, reported (under the provisions of House Rules 7B and 7C) an Order relative to special procedures for consideration of the General Appropriation Bill for the fiscal year 2015 (House, No. 4000) (for order, see House, No. 3999).

General  
Appropriation  
Bill,—  
procedures.

Pending the question on adoption of the order, Mr. Jones of North Reading and other members of the House moved to amend it in line 22 by inserting after the word “further” the following paragraph:

“*Ordered*, That, any amendment in the second degree containing language which would create a study of any part of the subject matter contained in the original amendment, may only be adopted if such further amendment has the express approval of the sponsor of the original amendment. Express approval shall be limited to the original sponsor speaking in favor of the further amendment on the floor of the House during the formal session in which the amendment is offered, provided that such speech is recorded in the Journal of the House, or the filing of the further amendment by the original sponsor. If the original sponsor does not provide express approval of such further amendment, the further amendment may only be adopted by an affirmative vote of not less than two-thirds of the members on a recorded ye and nay vote.”

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call (Mr. Donato of Medford being in the Chair) 29 members voted in the affirmative and 117 in the negative.

Amendment  
rejected,—  
yea and nay  
No. 323.

**[See Ye and Nay No. 323 in Supplement.]**

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the order in lines 16 to 19, inclusive, by striking out the paragraph contained in those lines.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 31 members voted in the affirmative and 115 in the negative.

Amendment  
rejected,—  
yea and nay  
No. 324.

**[See Ye and Nay No. 324 in Supplement.]**

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the order in lines 20, 21 and 22 by striking out the paragraph contained in those lines.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call (Mr. Donato of Medford

Amendment  
rejected,—  
yea and nay  
No. 325.

General  
Appropriation  
Bill,—  
procedures.

being in the Chair) 31 members voted in the affirmative and 115 in the negative.

**[See Yea and Nay No. 325 in Supplement.]**

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the order in line 4 by inserting after the word “Speaker;” the following: “provided said amendments shall be filed no later than five o’clock P.M. Wednesday, April 16, 2014;”.

Amendment  
rejected,—  
yea and nay  
No. 326.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 29 members voted in the affirmative and 116 in the negative.

**[See Yea and Nay No. 326 in Supplement.]**

Therefore the amendment was rejected.

On the question on adoption of the order, the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call 117 members voted in the affirmative and 29 in the negative.

Order  
adopted,—  
yea and nay  
No. 327.

**[See Yea and Nay No. 327 in Supplement.]**

Therefore the order (House, No. 3999) was adopted.

*Motion to Discharge a Certain Matter  
in the Orders of the Day.*

Domestic  
violence.

The Senate Bill enhancing protection for victims of domestic violence (Senate, No. 1897), was discharged from its position on the Calendar and read a second time, under suspension of Rule 47, on motion of Mr. DeLeo of Winthrop.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4034,— was considered.

Pending the question on adoption of the amendment, Mr. DeLeo of Winthrop and other members of the House moved to amend it by striking out the text contained therein and inserting in place thereof the text contained in House document numbered 4037; and by striking out the title and inserting in place thereof the following title: “An Act relative to domestic violence.”. The further amendments were adopted, thus precluding a vote on the pending amendment.

The bill (Senate, No. 1897, amended) then was ordered to a third reading.

Subsequently under suspension of the rules, on motion of Mr. Markey of Dartmouth, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After remarks on the question on passing the bill, as amended, to be engrossed, Mr. Fallon of Malden moved to amend it by adding the following section:

“SECTION 56. Any member of the Great and General Court found guilty of domestic abuse and/or domestic assault on a person of the opposite or similar sex, by a jury of his or her peers or a court of competent jurisdiction shall be automatically expelled from his or her elected position until the next general election which occurs 5 years after the expiration of the individuals sentence.”.

Pending the question on adoption of the amendment, Mr. Fallon asked for a count to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum. Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 145 members were recorded as being in attendance. Quorum,—  
yea and nay  
No. 328.

**[See Yea and Nay No. 328 in Supplement.]**

Therefore a quorum was present.

Mr. McMurty of Dedham thereupon raised a point of order that the amendment offered by gentleman from Malden was improperly before the House for the reason that it went beyond the scope of the pending bill. Point of  
order.

The Chair (Mr. Donato of Medford) ruled that the point of order was well taken, and the amendment was laid aside accordingly.

Mr. Fallon thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Lombardo of Billerica. Appeal from  
decision of  
Chair.

The question then was put "Shall the decision of the Chair stand as the judgment of the House?"

After debate the decision of the Chair was sustained.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 56. There is hereby established a special commission for the purposes of examining the housing and shelter options available to victims of domestic violence and exploring various options for expanding such resources through legislation. As a part of its study, the commission shall examine the feasibility and costs associated with establishing a tax incentive to be available to hotels and motels offering free rooms to victims of domestic violence, and the possibility of creating a database of participating hotels and motels through the Massachusetts office of victim assistance which would be made available only to victim advocacy groups that directly assist domestic violence victims in obtaining housing. The commission shall consist of the executive director of the Massachusetts office of victim assistance or designee, who shall serve as chair; the secretary of public safety and security or a designee; the secretary of housing and community development or a designee; the commissioner of the department of public health or a designee; one member of the senate, appointed by the senate president; one member of the senate, appointed by the senate minority leader; one member of the house of representatives, appointed by the speaker of the house; one member of the house of representatives, appointed by the house minority leader; the president of the Massachusetts District Attorneys Association or designee; the commissioner of revenue, or a designee; a representative of the Massachusetts Lodging Association; three members of victim advocacy groups, appointed by the governor. The commission shall submit its report and findings, along with any draft of legislation, to the house and senate committees on ways and means, the joint committee on the judiciary, and the clerks of the house of representatives and the senate on or before December 31, 2014."

The amendment was adopted.

Domestic  
violence.

Mr. Jones of North Reading and other members then moved to amend the bill by adding the following section:

“SECTION 57. The executive office of public safety and security, in conjunction with the district attorneys, shall develop a report to be sent to the clerks of the house and senate, the house and senate committees on ways and means, the joint committee on public safety and homeland security, and the joint committee on the judiciary. The report shall contain, but not be limited to, comprehensive information and statistics related to domestic violence crimes and arrests and prosecutions of domestic violence related offenses, including dangerousness hearings, to serve as an examination of the effectiveness of the commonwealth’s domestic violence laws. The report shall include data collection following the implementation of this act, and be issued no later than July 31, 2015.”.

The amendment was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence Mr. Markey of Dartmouth moved to amend it by striking out section 40 and inserting in place thereof the following section:

“SECTION 40. Said section 58A of said chapter 276, as so appearing, is hereby further amended by striking out, in line 92, the word ‘ninety’ and inserting in place thereof the words:— one hundred and twenty.”.

The amendment was adopted.

Mrs. Ferguson of Holden and other members of the House then moved to amend the bill by inserting after section 7 the following seven sections:

“SECTION 7A. Section 121 of chapter 140 of the general laws, as appearing in the 2012 official edition, shall be amended by deleting in lines 6 through 8 the following:— The term ‘ammunition’ shall also mean tear gas cartridges, chemical mace or any device or instrument which contains or emits a liquid, gas, powder or any other substance designed to incapacitate.

SECTION 7B. Section 121 of chapter 140 of the general laws, as so appearing, shall be amended by inserting after the word ‘imposed’ in line 7 the following:— ‘Defensive Spray’ shall mean tear gas cartridges, chemical mace or any device or instrument which contains or emits a liquid, gas, powder or any other substance designed to incapacitate.”.

SECTION 7C. Section 129B of chapter 140 of the general laws, as so appearing, shall be amended by deleting in lines 141 through 143 the following:— A firearm identification card shall be valid for the purpose of purchasing and possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate.

SECTION 7D. Section 129B of chapter 140 of the general laws, as so appearing, shall be amended by deleting in lines 155 through 159 the following:— If a firearm identification card is issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate, such card shall clearly state that such card is valid for such limited purpose only.

SECTION 7E. Section 129B of chapter 140 of the general laws, as so appearing, shall be amended by deleting Clause (9B) in lines 198 through 215.

SECTION 7F. Chapter 140 of the general laws, as so appearing, shall be amended by inserting the following new section:—

Section 129E. Notwithstanding and special law or regulation to the contrary it shall be lawful for residents or non-residents aged 18 years of age or older to purchase, possess, carry, transport Defensive Sprays as defined in section 121 of chapter 140.

SECTION 7G. Section 131 of chapter 140 of the general laws, as so appearing, shall be amended by deleting in clause (c), the following:— and for purchasing and possessing chemical mace, pepper spray, or other similarly propelled liquid, gas, or powder designed to temporarily incapacitate,.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mrs. Ferguson; and on the roll call 142 members voted in the affirmative and 0 in the negative.

Amendment  
adopted,—  
yea and nay  
No. 329.

**[See Yea and Nay No. 329 in Supplement.]**

Therefore the amendment was adopted.

Mr. Chan of Quincy then moved to amend the bill in section 8, in line 316, by inserting after the word “victims,” the words “the challengers of domestic violence victims who come from different cultures and speak different languages”. The amendment was adopted.

Mrs. O’Connell of Taunton and other members of the House moved to amend the bill in section 15 by adding the following four paragraphs:

“No court shall make an order providing visitation rights to a parent who has been convicted of murder in the first degree of a sibling of the child who is the subject of the order, unless such child is of suitable age to signify his assent to such order; provided further, that until such order is issued, no person shall visit, with the child present, a parent who has been convicted of murder in the first degree of a sibling of the child.

No court shall make an order providing visitation rights to a parent who has been convicted of sexual assault on any family member; provided further, that this provision shall apply to all siblings regardless of whether the child(ren) placed in the custody of the department is the victim of said sexual assault.

The department of children and families shall make no order providing visitation rights to a parent who has been convicted of murder in the first degree of a sibling of the child who is the subject of the order, unless such child is of suitable age to signify his assent to such order; provided further, that until such order is issued, no person shall visit, with the child present, a parent who has been convicted of murder in the first degree.

The department of children and families shall make no order providing visitation rights to a parent whose child(ren) has been placed in the custody of the department as a result of sexual assault on any family member; provided further, that this provision shall apply to all siblings regardless of whether the child(ren) placed in the custody of the department is the victim of said sexual assault.”.

The amendment was adopted.

Domestic  
violence.

Mr. Hill of Ipswich and other members of the House then moved to amend the bill by striking out section 8 and inserting in place thereof the following section:

“SECTION 8. Section 25 of chapter 279 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the words ‘section 15A’, the following:— subsection (c) of section 15D.”.

The amendment was adopted.

Mr. Markey of Dartmouth then moved to amend the bill in section 1, in line 10, by inserting after the word “victim.” the following sentence: “The course of instruction and guidelines shall also include specific training on adolescent development, trauma, and family dynamics.”; by striking out section 34 and inserting in place thereof the following section:

“SECTION 34. Said section 42A of said chapter 276, as so appearing, is hereby further amended by inserting after the first paragraph the following 3 paragraphs:—

For any violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M, 13N or 15D of chapter 265, (1) a person arrested, who has attained the age of 18 years, shall not be admitted to bail sooner than 6 hours after arrest, except by a judge in open court, and, except where prohibited by section 57, every effort shall be made to assess bail no more than 8 hours after the arrest, and (2) the clerk, assistant clerk, or other person authorized to take bail for such violation may impose conditions on a person’s release in order to ensure the appearance of the person before the court, and the safety of the alleged victim, any other individual or the community; provided, however, that the clerk, assistant clerk, or other person authorized to take bail shall, in imposing such conditions, have immediate access to all pending and prior criminal offender record information, board of probation records, and police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request, to the extent practicable, and shall take into consideration the following: the nature and circumstances of the offense charged, the potential penalty the person faces, the person’s family ties, employment record and history of mental illness, the person’s reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the person’s record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction.

For any violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M, 13N or 15D of chapter 265, a judge shall, prior to admitting the person, who has attained the age of 18 years, to bail, or modifying an existing order of bail, make a written determination as to whether there are conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community on the basis of any information which the court can reasonably obtain, the nature and circumstances of the offense charged, the potential penalty the person faces, the person's family ties, employment record and history of mental illness, the person's reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the person's record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction. The judge shall have immediate access to all pending and prior criminal offender record information, board of probation records, and police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are conditions of release that will reasonably assure the safety of the alleged victim, any other individual and the community, the judge shall impose such conditions of release. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are no conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community, the person shall be held and transferred automatically, and without a motion from the commonwealth, for an appearance and hearing pursuant to section 58A at the next sitting of the court; provided, however, that the commonwealth may decline such a hearing and instead proceed under section 58 and request cash bail or under section 58B revocation of release. The person shall, prior to admittance, be provided with informational resources related to domestic violence by the person admitting the arrestee to bail, which shall include, but is not limited to, a list of certified batterer intervention programs located within or near the court's jurisdiction. If the defendant is released on bail from the place of detention, a reasonable attempt shall be made to notify the victim of the defendant's release by the arresting police department. If the defendant is released on bail by order of a court, a reasonable attempt shall be made to notify the victim of the defendant's release by the district attorney.

Domestic  
violence.

Notwithstanding the previous paragraph, where a judge admits a person to bail sooner than 6 hours after arrest the commonwealth may move to postpone arraignment, for the purpose of assembling the record, for not more than 3 hours for a person charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 of chapter 209C, or a violation of section 13K, 13M, 13N or 15D of chapter 265.”; by striking out section 37 and inserting in place thereof the following section:

“SECTION 37. Section 57 of said chapter 276, as so appearing, is hereby amended by inserting after the first paragraph the following 3 paragraphs:—

For any violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M, 13N or 15D of chapter 265, (1) a person arrested, who has attained the age of 18 years, shall not be admitted to bail sooner than 6 hours after arrest, except by a judge in open court, and, except where prohibited by this section, every effort shall be made to assess bail no more than 8 hours after the arrest, and (2) the clerk, assistant clerk, or other person authorized to take bail for such violation may impose conditions on a person’s release in order to ensure the appearance of the person before the court, and the safety of the alleged victim, any other individual or the community; provided, however, that the clerk, assistant clerk, or other person authorized to take bail shall, in imposing such conditions, have immediate access to all pending and prior criminal offender record information, board of probation records, and police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request, to the extent practicable, and shall take into consideration the following: the nature and circumstances of the offense charged, the potential penalty the person faces, the person’s family ties, employment record and history of mental illness, the person’s reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the person’s record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction.

For any violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M, 13N or 15D of chapter 265, a judge shall, prior to admitting the

person, who has attained the age of 18 years, to bail, or modifying an existing order of bail, make a written determination as to whether there are conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community on the basis of any information which the court can reasonably obtain, the nature and circumstances of the offense charged, the potential penalty the person faces, the person's family ties, employment record and history of mental illness, the person's reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the person's record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction. The judge shall have immediate access to all pending and prior criminal offender record information, board of probation records, and police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are conditions of release that will reasonably assure the safety of the alleged victim, any other individual and the community, the judge shall impose such conditions of release. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are no conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community, the person shall be held and transferred automatically, and without a motion from the commonwealth, for an appearance and hearing pursuant to section 58A at the next sitting of the court; provided, however, that the commonwealth may decline such a hearing and instead proceed under section 58 and request cash bail or under section 58B revocation of release. The person shall, prior to admittance, be provided with informational resources related to domestic violence by the person admitting the arrestee to bail, which shall include, but is not limited to, a list of certified batterer intervention programs located within or near the court's jurisdiction. If the defendant is released on bail from the place of detention, a reasonable attempt shall be made to notify the victim of the defendant's release by the arresting police department. If the defendant is released on bail by order of a court, a reasonable attempt shall be made to notify the victim of the defendant's release by the district attorney.

Notwithstanding the previous paragraph, where a judge admits a person to bail sooner than 6 hours after arrest the commonwealth may move to postpone arraignment, for the purpose of assembling the record, for not more than 3 hours for a person charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15

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of chapter 209C, or a violation of section 13K, 13M, 13N or 15D of chapter 265.”; by striking out section 38 and inserting in place thereof the following section:

“SECTION 38. Section 58 of said chapter 276, as so appearing, is hereby amended by inserting after the first paragraph the following 3 paragraphs:—

For any violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M, 13N or 15D of chapter 265, (1) a person arrested, who has attained the age of 18 years, shall not be admitted to bail sooner than 6 hours after arrest, except by a judge in open court, and, except where prohibited by section 57, every effort shall be made to assess bail no more than 8 hours after the arrest, and (2) the clerk, assistant clerk, or other person authorized to take bail for such violation may impose conditions on a person’s release in order to ensure the appearance of the person before the court, and the safety of the alleged victim, any other individual or the community; provided, however, that the clerk, assistant clerk, or other person authorized to take bail shall, in imposing such conditions, have immediate access to all pending and prior criminal offender record information, board of probation records, and police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request, to the extent practicable, and shall take into consideration such information and the factors listed in this section.

For any violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M, 13N or 15D of chapter 265, a judge shall, prior to admitting the person, who has attained the age of 18 years, to bail, or modifying an existing order of bail, make a written determination as to whether there are conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community on the basis of any information which the court can reasonably obtain, the nature and circumstances of the offense charged, the potential penalty the person faces, the person’s family ties, employment record and history of mental illness, the person’s reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the person’s record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction. The judge shall have immediate access to all pend-

ing and prior criminal offender record information, board of probation records, and police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are conditions of release that will reasonably assure the safety of the alleged victim, any other individual and the community, the judge shall impose such conditions of release. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are no conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community, the person shall be held and transferred automatically, and without a motion from the commonwealth, for an appearance and hearing pursuant to section 58A at the next sitting of the court; provided, however, that the commonwealth may decline such a hearing and instead proceed under section 58 and request cash bail or under section 58B revocation of release. The person shall, prior to admittance, be provided with informational resources related to domestic violence by the person admitting the arrestee to bail, which shall include, but is not limited to, a list of certified batterer intervention programs located within or near the court's jurisdiction. If the defendant is released on bail from the place of detention, a reasonable attempt shall be made to notify the victim of the defendant's release by the arresting police department. If the defendant is released on bail by order of a court, a reasonable attempt shall be made to notify the victim of the defendant's release by the district attorney.

Notwithstanding the previous paragraph, where a judge admits a person to bail sooner than 6 hours after arrest the commonwealth may move to postpone arraignment, for the purpose of assembling the record, for not more than 3 hours for a person charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 of chapter 209C, or a violation of section 13K, 13M, 13N or 15D of chapter 265." in section 39, in line 919, and also in section 44, in line 957, by inserting after the word "person", in each instance, the following: "who has attained the age of 18 years".

The amendments were adopted.

The question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Markey of Dartmouth; and on the roll call 143 members voted in the affirmative and 0 in the negative.

Bill passed to  
be engrossed,—  
yea and nay  
No. 330.

### **[See Yea and Nay No. 330 in Supplement.]**

Therefore the bill, as amended, was passed to be engrossed, in concurrence.

Mr. DeLeo of Winthrop then moved that this vote be reconsidered; and the motion to reconsider was considered forthwith and it prevailed.

Pending the recurring question on passing the bill, as amended, to be engrossed, in concurrence, the same member moved to amend it by inserting before the enacting clause the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose which is to established forthwith certain provisions against domestic violence, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety."

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The amendment was adopted; and the bill (Senate, No. 1897, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments (contained in House document numbered 4038).

*Engrossed Bill — Land Taking.*

Sharon,—  
land.

The engrossed Bill authorizing the conveyance of certain state land in the town of Sharon (see House, No. 2831, changed) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill enacted  
(land taking),—  
yea and nay  
No. 331.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 141 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 331 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

*Order.*

On motion of Mr. DeLeo of Winthrop,—

Next  
sitting.

*Ordered,* That when the House adjourns today, it adjourn to meet on Thursday next at eleven o'clock A.M.

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Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at thirteen minutes after the hour of six o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Thursday at eleven o'clock A.M., in an Informal Session.